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[redacted]

#322
Day + Allen
11

11 May 1954

OGC Has Reviewed

MEMORANDUM FOR: Acting Deputy Director (Administration)

SUBJECT : Hardship Claims - [redacted] 25X1A9a

1. This will acknowledge receipt of these two claims which were forwarded for our recommendation as to disposition. Please also accept our apology for the delay which became necessary because of a requirement for additional information which was not apparent in the material originally contained in the file. This material consists of the memoranda from Finance Division to the [redacted] Station 25X1A6a
which took exception to the grant of quarters allowances in these cases and gave the grounds for such exceptions. In addition, clarification of the problem was sought by personal discussion with
FOIAb3b [redacted] Chief of Mission, [redacted] FOIAb3b

2. On the basis of the information now available, we are of the opinion that the cases have no connection with the Director's Order of September 8, 1952, designating [redacted] as the official duty 25X1A6a
station for all personnel in the [redacted] area. We are also of the 25X1A6a
opinion that the cases should not yet be considered by you under your authority given by Section 10.12 of the Confidential Funds Regulations (now Section 9a. c[redacted] 25X1A
25X1A9a

3. As we interpret the documents in the file, Miss [redacted] and
25X1A9a Miss [redacted] were both long-time residents of the [redacted] area who 25X1A6a
either applied for employment or were prevailed upon to be employed
25X1A6a by the Agency at the mission in [redacted]. Since both were long-time residents and since at least one had worked for the Government before, both assumed when told the GS rating they would receive that certain additional benefits in the form of differentials would be payable as a natural consequence of their employment by the Federal
25X1A6a Government in [redacted]. The file does not indicate that any type of differential was paid, but there appears to have been a quarters allowance paid to both individuals, at least until notice of the exception by the Finance Division was received. The substance of both individuals' claims is that neither would have worked for the Agency if she had known that no additional benefits were payable and would have sought employment by another Federal agency in the area from which these benefits could have been procured. An additional factor stressed by both is the fact that neither has the money to make restitution at this late date.

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4. The only question which appears to be at issue in these two cases is whether a person hired by the Agency at a post of duty outside the continental limits of the United States, its territories or possessions, is entitled by reason of such employment to a quarters allowance similar to those received by employees who were hired in the United States and transferred to the particular post involved. The basis of the position of the Finance Division that no allowance may be paid is the following statement in its memorandum to the Chief of Station, [redacted]:

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> "In regard to this matter, CFD regulations provide that Quarters Allowances cannot be paid to Resident Staff Employees. An employee with this designation is one who is not available for service-wide duty or is at a post primarily for reasons other than their employment with the Agency."

5. In our opinion, the position of the Finance Division may not be justified on legal grounds although it appears to be the weight of opinion throughout the Government as to the proper policy basis on which to handle this type claim. In short, our position is that, although as a matter of policy agencies of the Federal Government usually do not allow payment of post or quarters allowance to persons hired at a foreign post, there is no statutory or regulatory prohibition to such action if the individual agency desires to do it in any given case.

6. CIA Regulations do not differentiate in the matter of quarters allowance between persons hired in the United States and persons hired at the foreign post. CIA Regulations do, however, provide [redacted] Paragraph 2a(1)) that overseas allowances will be paid employees in accordance with the provisions of applicable regulations issued by the Department of State. The Department of State Regulations, in discussing the eligibility of members of the Foreign Service to receive overseas allowances, states that employees appointed locally shall not be eligible to receive these allowances unless declared eligible by the Department (Section 315.2, Part IV, Volume I).

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7. The substance of that portion of the Finance Division memorandum which is quoted above is taken from Section 114.3 of Part IV of the State Department Regulations. This section and the two succeeding sections discuss the category of resident staff personnel and infer strongly that quarters allowances are not payable to such employees. This inference is fortified by a report made by the Bureau of the Budget and the Civil Service Commission dated April 1, 1952, on Overseas Pay and Personnel Practices. In this report the general policy on furnishing quarters allowances to United States citizens recruited at foreign posts is discussed as follows:

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"In general, agencies furnish quarters at foreign posts or pay quarters allowances in accordance with regulations of the State Department. It is a common practice among agencies to exclude administratively from this allowance United States citizens recruited locally. The Departments of the Army, the Navy, and the Air Force, for example, do not generally pay a quarters allowance to United States citizens recruited at foreign posts unless they meet the eligibility standards set for post differential payments, and the State Department does not pay this allowance to the resident staff of the Foreign Service."

8. Our conclusion is, therefore, that while as a matter of practice it may be highly unusual for an agency to pay a quarters allowance to an employee who was neither hired in the United States or owes his presence in the area of the foreign post to the fact of his employment, there is no legal prohibition against doing so if the proper official considers that the allowances should be paid. We recommend, therefore, that the entire file be forwarded to the Assistant Director for Personnel for a decision on this point and for return to your office. If the decision of the Assistant Director for Personnel is that a quarters allowance should not be paid in these instances, there would be no basis for consideration of the case under [redacted] since this section is limited to cases where authority to expend funds is not otherwise provided. On the other hand, we would consider it worthy of consideration by the Assistant Director for Personnel that, although the quarters allowances were apparently originally authorized by the Chief of Station, it took in one of the cases eighteen months to reach a decision as to whether it might properly be paid.

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9. The file papers are returned herewith together with those supplied us by Finance Division.

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[redacted]
Office of General Counsel

Attachments

OGC:TMF:cst

cc: Legal, Vital
Subject, Signer
Chrono

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